

# State of Canadian Psychedelic Law 2025 Report



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# 2024: Year in Review

Much like the year preceding it, 2024 was a year of mixed results for Canadian psychedelic law, with legalization progress on some fronts and setbacks on others.

On the upside:

- Psychedelic lawyer Nick Pope fought the law and won, with a Federal Court ruling that Health Canada acted unreasonably in refusing an Alberta man Special Access Program approval to treat cluster headaches with microdosed psilocybin; and
- At the tail end of 2023, another psychedelic lawyer, Paul Lewin, launched a constitutional challenge to establish psilocybin use as a protected right under the *Canadian Charter of Rights and Freedoms*' "freedom of thought" provision. The case is ongoing.

On the downside:

- British Columbia decided to scale back its drug decriminalization pilot after disappointing first year results; and
- Thomas Hartle, the first person in Canada to legally access medical psilocybin, sadly succumbed to cancer after years of heroically beating all odds against the illness.

Moreover, we cannot properly report on the last year in Canadian psychedelic law without covering several massive developments in the United States, most notably:

- A Massachusetts ballot measure to decriminalize certain psychedelics (including psilocybin) was rejected by a resounding vote of 57% against vs. 43% in favour;

- The US Food and Drug Administration (FDA) rejected an MDMA therapy treatment application many previously expected to result in *de-facto* federal medical legalization; and
- Donald Trump won the US election for president, and is set to bring various colourful pro-psychedelic characters into the new administration, including Robert F. Kennedy Jr. and Elon Musk.

## What Is and Isn't Legal in 2025

Psychedelic substances are largely governed by three federal laws in Canada: the *Cannabis Act*, the *Controlled Drugs and Substances Act* (CDSA), and the *Food and Drugs Act*.<sup>1</sup> These laws determine which substances are permitted or prohibited for possession, cultivation, distribution, import, and export.

Due to inconsistent enforcement of these laws over time and across jurisdictions, there's considerable confusion about what exactly is legal and what is not in Canada. For clarity, we've outlined the current legal status of various popular psychedelic substances below:

- **Cannabis** is legal for adult recreational use pursuant to the *Cannabis Act* and applicable provincial regulations.
- **Psilocybin** (“magic mushrooms”) is illegal under Schedule III of the CDSA, unless permitted by Health Canada via the Special Access Program (SAP) or pursuant to a s. 56 exemption under the CDSA.
- **LSD** (“acid”) and **DMT** (the active psychedelic agent in ayahuasca) are illegal under Schedule III of the CDSA, unless permitted pursuant to a s. 56 exemption under the CDSA.

- **MDMA** (“ecstasy”) is illegal under Schedule III of the CDSA, unless permitted by Health Canada via the SAP or pursuant to a s. 56 exemption under the CDSA. In British Columbia personal possession of up to 2.5 grams of MDMA was decriminalized effective January 31, 2023.<sup>2</sup> However, as of May 7, 2024, MDMA use (possession) was *recriminalized* in public spaces, though possession of up to 2.5 grams of MDMA remains decriminalized in private residences, designated healthcare clinics, lawful shelters, and overdose prevention and drug checking sites.<sup>3</sup>
- **Ketamine** is legal and regulated for medical but not recreational use pursuant to Schedule I of the CDSA and applicable regulations.
- **Mescaline** is prohibited under Schedule III of the CDSA, but peyote (which contains mescaline) is legal for personal possession.
- **5-MeO-DMT** (“bufo”) and **ibogaine** are legal for personal possession. However, distribution and other activities involving these substances are illegal unless specifically authorized pursuant to the *Food and Drugs Act* or permitted by Health Canada via the SAP.

## BC’s Decriminalization Rollback

In October 2021, British Columbia’s government published a 43-page document asking the federal government for a province-wide exemption under s. 56 of the CDSA to decriminalize limited possession of all controlled substances.<sup>4</sup> Through decriminalization, reducing stigma associated with drug use, and reducing fear of drug confiscation, BC sought to curb an overdose crisis which has claimed the lives of over 14,000 people since April 2016, when the province officially declared the situation an emergency.<sup>5</sup> In May 2022, the federal government agreed to grant the exemption, but only with respect to personal possession of up to 2.5 grams of opioids, cocaine, methamphetamine, and MDMA. The exemption would take effect January 1, 2023.<sup>6</sup>

A year later, the effort was widely regarded as having “failed” to reduce overdoses, while only exacerbating the province’s other drug-related problems.<sup>7</sup> Increased reports of public drug use on streets, in hospitals, at parks and bus stops amounted to an “intolerable situation.”<sup>8</sup> A similar decriminalization effort in Oregon met with the same undesirable results and public backlash.<sup>9</sup>

Accordingly, in April 2024, BC asked the federal government to roll back the scope of its exemption to recriminalize public use (possession) of applicable substances.<sup>10</sup> The federal government would grant the request, and as of May 7, 2024, the exemption no longer applies to public spaces. Though it still applies to private residences, legal shelters, overdose prevention and supervised consumption sites, and drug checking locations.<sup>11</sup>

Advocates of decriminalization assert that hostile coverage of the effort was in bad faith and politically motivated.<sup>12</sup> For example, members of the opposition party BC United claimed that nurses at St. Paul’s Hospital in Vancouver reported rampant drug use and dealing at the hospital, including “needles and broken crack pipes all over the floor.”<sup>13</sup> Yet, an addiction medicine physician at the hospital disputed these claims, stating that substance use at St. Paul’s or any other hospital is nothing new.<sup>14</sup> The physician also expressed disappointment about false narratives that do a disservice to patients and others in the healthcare field.<sup>15</sup>

Harm reduction advocates and healthcare workers also argued that the government ensured decriminalization’s failure by refusing to provide sufficient public support to address root causes of addiction.<sup>16</sup> Many also expressed concern that recriminalizing public use will worsen the crisis by necessitating more drug use in private, where it is less likely others will be around to assist in case of emergency.<sup>17</sup> As Manisha Krishnan wrote in a *Globe & Mail* op-ed on the subject: “there’s [a] term for applying the same failed solutions to the overdose problem again and again, hoping for a different outcome: insanity.”<sup>18</sup>

## *Lance v. Canada*

After conventional treatments failed to relieve Jodi Lance of debilitating cluster headache symptoms, his doctor in Calgary recommended microdosing psilocybin. Turns out, the prescription was just crazy enough to work.<sup>19</sup>

Lance's microdosing regimen substantially alleviated negative cluster headache symptoms. It was also totally illegal. So, Lance applied to Health Canada by means of the Special Access Program for legal access to medical grade psilocybin which he would self-administer. But Health Canada refused his application, asserting that the treatment's medical efficacy had not been established, and alternative conventional treatments had not been sufficiently exhausted.<sup>20</sup>

Represented by Nicholas Pope of Hameed Law, Lance challenged Health Canada's decision in Federal Court and won. The Court found Health Canada's explanation for denying his application unreasonable. The Ministry ignored Lance's *Charter* arguments regarding liberty and security of the person, specifically regarding how the law restricts his ability to make informed medical decisions concerning his own health. In doing so, the Ministry was at best delaying - and at worst, entirely obstructing - his legal access to effective medical treatment for a condition causing him "some of the most severe pain known to medical science."<sup>21</sup>

The Court sent the application back to Health Canada for reconsideration within 14 days. Lance's application was granted.<sup>22</sup> The decision established a phenomenal precedent for future SAP applicants seeking psychedelic-assisted treatment access.

## **Freedom of Thought**

In the summer of 2023, police raided a London, Ontario Fun Guyz dispensary. Three employees were charged with psilocybin possession for the purpose of trafficking, in violation of the CDSA. In response to the charges, their lawyers, chief among them Paul Lewin, launched a constitutional challenge, arguing that Canada's psilocybin prohibition infringes freedom of thought rights under s. 2(b) of the *Charter*.<sup>23</sup>

Section 2(b) is more commonly known for protecting freedom of expression generally. It guarantees that that “everyone has...freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.”<sup>24</sup> Lewin’s firm, Lewin and Sagara LLP, state on their website the applicant’s position:

*Psilocybin is a freedom of thought tool. Psilocybin is to freedom of thought what the printing press was to freedom of expression, what a passport is to freedom of mobility or what a church is to freedom of religion. It is a tool that allows one to experience that freedom in a more fulsome manner. Psilocybin enhances thought in many ways. Psilocybin promotes focus, mindfulness, openness, connectivity, creativity, cognitive flexibility, interpersonal closeness, gratitude, well-being, peace, calm, compassion, empathy, spiritual experiences, life meaning/ purpose, and ego dissolution.*<sup>25</sup>

Canadian jurisprudence has to date scarcely explored the *Charter*’s “freedom of thought” protection. Consequently, this case ventures into relatively novel and uncertain legal territory, meaning its outcome could have significant implications well beyond psychedelic-related issues.

## FDA Rejects MDMA

In June 2024, the US FDA refused an application for post-traumatic stress disorder (PTSD) MDMA-assisted therapy, citing the need for an additional Phase 3 trial to evaluate the proposed treatment’s safety and efficacy.<sup>26</sup>

Lykos Therapeutics, the for-profit arm of the non-profit Multidisciplinary Association for Psychedelic Studies (MAPS), submitted what appeared to be a strong application for MDMA therapy approval. Supported by seemingly exceptional Phase 3 trial results - with participants who received the drug reporting significantly reduced PTSD symptoms compared to the control group, and no serious adverse effects - the application was accepted for review by the FDA in February 2024.<sup>27</sup>



Following review though, the FDA’s advisory panel was unimpressed, expressing numerous concerns about the way trial data was collected. Chief among them being expectancy bias in both participants and investigators, which together with “functional unblinding” – most trial participants being aware whether or not they were given placebo – was suspected of compromising reported data. Ultimately, by a vote of 9-2, the panel advised against approval. The FDA itself would shortly thereafter follow the panel’s advice, rejecting the application and recommending Lykos conduct a new Phase 3 trial to test the efficacy of its therapeutic method in a more rigorous manner.<sup>28</sup>

Lykos subsequently attributed the FDA’s rejection primarily to the “limited number of subject matter experts on the panel and the nature of the discussion, which at times veered beyond the scientific content in the briefing documents.”<sup>29</sup> However, the FDA was not the first to express concerns about Lykos’ data: in a March 2024 report, the Institute for Clinical and Economic Review concluded that “many uncertainties about the balance of benefits and harm” regarding the treatment remained outstanding due to concerns about Lykos’ trial design and conduct surrounding research.<sup>30</sup>

While this setback will delay (if not wholly prevent) broader legal access to MDMA therapy in the US, it is difficult to predict how it may otherwise impact psychedelic legalization efforts in the US and Canada.<sup>31</sup> Though one might readily and understandably conclude the rejection will do little to benefit legalization efforts.

However, the setback may (or may not) prove temporary, given the incoming Trump administration’s pick to lead the Department of Health and Human Services. Robert F. Kennedy Jr. has already berated the FDA for its “aggressive suppression of psychedelics” and supposed “collusion with the pharmaceutical industry”.<sup>32</sup> The administration’s pick to co-lead the *real-ish* Department of Government Efficiency (DOGE), Elon Musk, is also outspoken in his support of psychedelic therapy, and well known to manage depression symptoms with ketamine.<sup>33</sup>

# The Passing of Thomas Hartle

Thomas Hartle died on August 13, 2024, after a lengthy battle with colon cancer.<sup>34</sup>

Diagnosed in 2016, he was the first of four Canadians in 2020 to obtain, with the help of BC-based advocacy organization TheraPsil, a s. 56 exemption under the CDSA for psilocybin-assisted therapy to manage end of life anxiety.<sup>35</sup>

The treatment proved remarkably effective. Reportedly, it helped him “feel a lot more comfortable with the idea of death and dying, as opposed to masking anxiety as an antidepressant would.”<sup>36</sup> He also directly told one of this report’s authors that in addition to the mental health benefits treatment afforded him, psilocybin helped him physically battle cancer (perhaps by means of its psychological benefit); in 2022, he had already undergone an astonishing 70+ rounds of chemotherapy.

Health Canada’s decision not to renew his initial exemption when it expired – and indeed, its failure to even respond to his application for over a year – deprived him of legal access to therapy that was clearly alleviating his distress and helping him combat cancer. In response, Hartle sued the government, joining various other plaintiffs in a *Charter* challenge alleging that the unreasonable barriers to medical psilocybin access violated their right to life, liberty and security of the person.<sup>37</sup>

On a personal note, Thomas Hartle was well-known within the Canadian psychedelic community, and greatly admired for his kindness, positivity, and bravery. Notwithstanding Hartle’s death, the lawsuit of *Hartle et al., v. Canada* is ongoing and may yet result in a constitutional right to individualized medical psilocybin access in Canada.<sup>38</sup>

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*Read last year's [State of Canadian Psychedelic Law: 2024 Report](#)*

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<sup>1</sup> See Cannabis Act (S.C. 2018, c. 16); see also Controlled Drugs and Substances Act (S.C. 1996, c. 19); see also Food and Drugs Act (R.S.C., 1985, c. F-27).

<sup>2</sup> *Personal Possession of Small Amounts of Certain Illegal Drugs in British Columbia (January 31, 2023 to January 31, 2026)*, HEALTH CANADA (May 5, 2021) (accessible at <https://www.canada.ca/en/health-canada/services/publications/drugs-health-products/fact-sheet-exemption-personal-possession-small-amounts-certain-illegal-drugs-british-columbia.html>).

<sup>3</sup> *Id.*; see also *Decriminalization in B.C.*, BC CENTRE FOR DISEASE CONTROL (accessible at <http://www.bccdc.ca/health-info/prevention-public-health/decriminalization-in-bc#:~:text=Possession%20of%20substances%20under%20the,changes%20come%20into%20effect%20immediately>).

<sup>4</sup> *DECriminalization in BC: S.56(1) EXEMPTION*, GOVERNMENT OF BRITISH COLUMBIA (October 2021) (accessible at <https://news.gov.bc.ca/files/DecrimSubmission.pdf>).

<sup>5</sup> *British Columbia to Recriminalize Use of Drugs in Public Spaces*, CBC NEWS (April 26, 2024); see also *Decriminalizing People Who Use Drugs In B.C.*, GOVERNMENT OF BRITISH COLUMBIA (August 7, 2024) (accessible at <https://www2.gov.bc.ca/gov/content/overdose/decriminalization>).

<sup>6</sup> *Decriminalization in B.C.*, *supra* note 3.

<sup>7</sup> Rob Shaw, *B.C. police chiefs pull support for decriminalization, call it a 'failed experiment'*, CHEK NEWS (December 4, 2024).

<sup>8</sup> Mike Howell, *Vancouver Police Chief Says Public Drugs Used 'Intolerable Situation'*, VANCOUVER IS AWESOME (May 3, 2024).

<sup>9</sup> Dani Anguiano, *Oregon undoes groundbreaking drug decriminalization law*, THE GUARDIAN (March 2, 2024).

<sup>10</sup> *B.C. moves to ban drug use in public spaces, taking more steps to keep people safe*, GOVERNMENT OF BRITISH COLUMBIA (April 26, 2024) (accessible at <https://news.gov.bc.ca/releases/2024PREM0021-000643>).

<sup>11</sup> *Decriminalization in B.C.*, *supra* note 3.

<sup>12</sup> *Backtracking On Drug Decriminalization Is Politically Cowardly – And Illogical*, THE GLOBE AND MAIL (May 22, 2024).

<sup>13</sup> *Opposition Alleges Open Drug Use, Dealing At Vancouver Hospital*, CBC/YAHOO NEWS (April 9, 2024).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Andrew Hathaway, *Drug Decriminalization Didn't Fail. We Did It Wrong*, THE TYEE (May 30, 2024); see also Leyland Coco, *British Columbia drops decriminalization of drugs in public*, THE GUARDIAN (April 29, 2024).

<sup>17</sup> *Mixed Reviews as B.C. Significantly Rolls Back Drug Decriminalization*, CBC NEWS (April 26, 2024).

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- <sup>18</sup> Manisha Krishnan, *Backtracking On Drug Decriminalization Is Politically Cowardly – And Illogical*, THE GLOBE AND MAIL (May 22, 2024).
- <sup>19</sup> *Lance v. Canada (Attorney General)*, 2024 FC 787 at paras 1-2 (*accessible at* <https://www.judicialreviewlaw.ca/docs/T-1881-23%20-%20Decision.pdf>).
- <sup>20</sup> *Id.* at para 4.
- <sup>21</sup> *Id.* at paras 1, 5-7, 23.
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- <sup>23</sup> Dale Carruthers, *Charter Challenge Filed After Magic Mushroom Shop Raid: 'Freedom Of Thought'*, THE LONDON FREE PRESS (December 8, 2023); *see also* Notice of Constitutional Question pursuant to s. 24(1) of the Canadian Charter of Rights and Freedoms, filed on November 21, 2023, at Ontario Court of Justice (South West Region) (*accessible at* <https://static1.squarespace.com/static/601dd5fc10894c548327a294/t/65b08230d5832816ab0cdaacc/1706066480441/NCQ.pdf>).
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- <sup>25</sup> *Freedom of Thought* (n.d.), LEWIN & SAGARA LLP (*accessible at* <https://lewinsagara.ca/freedom-of-thought/>)
- <sup>26</sup> Katie MacBride, *No, the FDA Didn't Reject MDMA Therapy Because of Big Pharma – It Was Because of Shoddy Science*, SLATE (August 14, 2024).
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